

ENTERED

September 02, 2021

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION****VALENTINA SHESTAWY, *ET AL.*****VS.****CONSERVATIVE CLUB OF
HOUSTON, INC., a.k.a. "C CLUB
PAC", *ET AL.***§
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§**C.A. No. 4:16-cv-00733****ORDER GRANTING SANCTIONS****A. Background**

On December 14, 2016, this Court made 54 findings of fact and conclusions of law supporting an award of sanctions, attorney's fees, and costs against Plaintiffs Donald Cheatham, Christopher Gabel, Don Peterson, Mackey Peterson, Lonny Peterson, and Valentina Spassova under Federal Rule of Civil Procedure 11, 28 U.S.C. § 1927, and the Court's inherent powers.¹ The Court awarded Harris County sanctions of \$1,500 for responding to Plaintiffs' November 4, 2016 Motion for New Trial.² The Court awarded Underwood, Jones & Scherrer, PLLC ("Jones") sanctions of \$3,000 for responding to Plaintiffs' November 4, 2016 Motion for New Trial.³

The Court also awarded Harris County and Jones each \$15,000 conditional sanctions if Plaintiffs appealed, and an additional \$7,500 if Plaintiffs filed a Petition for Writ of Certiorari to the United States Supreme Court.⁴ Plaintiffs appealed on January 11, 2017 and filed a Petition for Writ of Certiorari to the United States Supreme Court. Harris County and Jones successfully

¹ Doc. 337. These findings are adopted in this Order.

² Doc. 337 at ¶ 42. This was to be paid in the following amounts: \$500 by Donald Cheatham, \$500 by Christopher Gabel, \$250 by Don Peterson, Mackey Peterson, and Lonny Peterson, and \$250 by Valentina Spassova.

³ Doc. 337 at ¶ 40. This was to be paid in the following amounts: \$1,000 by Donald Cheatham, \$500 by Christopher Gabel, and \$500 each, totaling \$1,500 by Don Peterson, Mackey Peterson, and Lonny Peterson.

⁴ Doc. 337 at ¶¶ 50-51.

defended them both and, accordingly, are each entitled to an additional \$22,500 in appellate attorney's fees for work through March 19, 2018. In total, Plaintiffs owe Harris County \$24,000 and Jones \$25,500 in attorney's fees for work prior to that date.

On January 15, 2020, Plaintiffs Don Peterson, Lonnie Peterson, Mackey Peterson and Donald Cheatham,⁵ moved to reopen this case, vacate the judgment, and seek relief from the sanctions awarded two years earlier. On February 11, 2020, this Court denied Plaintiffs' motion. On March 10, 2020, the Petersons and Cheatham appealed.

On April 6, 2021, the Fifth Circuit Court of Appeals affirmed this Court, and on July 7, 2021, Plaintiffs filed a Petition for Writ of Certiorari with the United States Supreme Court. On July 12, 2021, the Fifth Circuit Court of Appeals issued the following Orders with respect to the Petersons' and Cheatham's 2020 appeal:

IT IS ORDERED that Appellees' joint opposed motion to remand the case to the district court to determine amount of attorneys' fees and costs is GRANTED.

IT IS FURTHER ORDERED that Appellees' joint opposed motion for sanctions against Don Peterson, Lonnie Peterson, and Mackey Peterson (collectively, "the Petersons"), and Donald Cheatham is GRANTED.

IT IS FURTHER ORDERED that Appellees' joint opposed motion to assess double costs against the Petersons is GRANTED.

Harris County and Jones submitted a joint motion and individual declarations of counsel supporting each of their clients' requests for an additional \$25,000 in attorney's fees for work incurred since 2020, conditional fees of \$500 per hour for any future work in this case, and a prohibition against Plaintiffs making filings in the Southern District of Texas without court permission until these sanctions are paid. The Court finds that the requests are reasonable and necessary. Accordingly, the Court orders the following.

⁵ Christopher Gabel and Valentina Spassova appear to have abandoned this litigation after 2018, and they are not subject to the most recent round of sanctions.

B. Orders**1. Harris County's fees.**

IT IS ORDERED that, in addition to Harris County's award of \$24,000 in attorney's fees from the Court's December 14, 2016 Sanctions Order, the Court awards Harris County an additional \$25,000 in attorney's fees against Donald Cheatham and the Petersons' (jointly and severally) as a sanction for filing frivolous appeals in 2020 and 2021. The prior and current sanctions are shown on the chart below:

Sanctions awarded against	12/14/16 fee award for responding to Motion for New Trial⁶	12/14/16 Appellate and Supreme Court fee award⁷	2020 Appeals	Total sanction
Lead Counsel Donald Cheatham	\$500	\$22,500 (joint and several)	\$25,000 (joint and several)	\$500 individual; \$47,500 joint and several
Second Chair Christopher Gabel	\$500	\$22,500 (joint and several)		\$500 individual; \$47,500 joint and several
Don Peterson, Mackey Peterson, Lonny Peterson	\$250	\$22,500 (joint and several)	\$25,000 (joint and several)	\$250 individual; \$47,500 joint and several
Valentina Spassova	\$250	\$22,500 (joint and several)		\$250 individual; \$47,500 joint and several
Total award for each sanction	\$1,500	\$22,500	\$25,000	\$49,000

⁶ Doc. 337 at ¶ 42.

⁷ Doc. 337 at ¶ 50-51.

2. Jones and Underwood, Jones & Scherrer, PLLC's attorney's fees.

IT IS ORDERED that in addition to Jones' \$25,500 award of attorney's fees from the Court's December 14, 2016 Sanctions Order, the Court awards Jones an additional \$25,000 in attorney's fees against Donald Cheatham and the Petersons (jointly and severally) as a sanction for filing frivolous appeals in 2020 and 2021. The prior and current sanctions are shown on the chart below:

Sanctions awarded against	12/14/16 fee award for responding to Motion for New Trial⁸	12/14/16 Appellate and Supreme Court fee award⁹	2020 Appeals	Total award against each party
Lead Counsel Donald Cheatham	\$1,000	\$22,500 (joint and several)	\$25,000 (joint and several)	\$1,000 individual; \$47,500 joint
Second Chair Christopher Gabel	\$500	\$22,500 (joint and several)		\$500 individual; \$22,500 joint
Don Peterson, Mackey Peterson, Lonny Peterson	\$500 each totaling \$1,500	\$22,500 (joint and several)	\$25,000 (joint and several)	\$500 individual (\$1,500 for group); \$47,500 joint
Total award for each sanction	\$3,000	\$22,500	\$25,000	\$50,500

⁸ Doc. 337 at ¶¶ 40-41.

⁹ Doc. 337 at ¶¶ 48-49.

- 3. Don Peterson, Lonnie Peterson, Mackey Peterson, and Donald Cheatham are barred from filing any pleading in the Southern District of Texas without Court permission until they have paid all sanctions in this case.**

IT IS FURTHER ORDERED that based on the Court's December 14, 2016 findings¹⁰ and the July 7, 2021 Orders of the Fifth Circuit Court of Appeals, Plaintiffs Don Peterson, Lonnie Peterson, Mackey Peterson and Donald Cheatham are barred from filing any pleading in the Southern District of Texas without seeking permission from the Court. This bar will remain in effect until Plaintiffs provide sufficient evidence that they have paid to Harris County \$49,000 in attorney's fees and paid to Underwood, Jones & Scherrer, PLLC \$50,500 in attorney's fees, with judicial interest from the date of each respective order.

4. Conditional sanctions for appeal.

IT IS FURTHER ORDERED that if any Plaintiffs appeal this Order, they will be jointly and severally liable to Harris County and Underwood, Jones & Scherrer, PLLC for conditional attorney's fees at the rate of \$500 per hour, with a presumption that 80 hours of time is reasonable through appeal and 50 hours is reasonable to respond to a Petition for Rehearing or Writ of Certiorari to the United States Supreme Court. Accordingly, this Court orders conditional attorney's fees of \$40,000 to any Defendant for successfully defending an appeal to the Fifth Circuit Court of Appeals and \$25,000 to any Defendant for successfully defending against a motion for rehearing at the Fifth Circuit Court of Appeals or Petition for Writ of Certiorari to the United States Supreme Court.

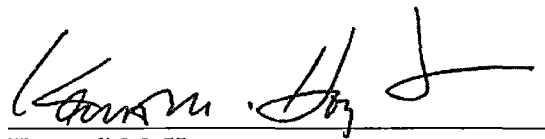
If Harris County or Underwood, Jones & Scherrer, PLLC's counsel reasonably incurs additional time defending any challenge to this Order, they will be entitled to attorney's fees at an hourly rate of \$500.

¹⁰ Doc. 337.

IT IS FURTHER ORDERED that the parties have 10 days to submit their bills of cost. In accordance with the Fifth Circuit Court of Appeals July 7, 2021 Order, those costs are doubled and taxed against Don Peterson, Lonnie Peterson, Mackey Peterson and Donald Cheatham. If no bill of cost is entered within 10 days, it will be presumed that the party has no costs or waives any costs in this case, and this will become a final judgment.

It is so ORDERED.

SIGNED on this 2nd day of September, 2021.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge